

BETWEEN KATY KERNAHAN
Applicant

AND REVIEW PUBLISHING CO LIMITED
Respondent

Member of Authority: Leon Robinson

Representatives: Claudia Elliott for Applicant
Paul Tremewan for Respondent

Determination: 6 June 2007

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] By a Determination dated 17 May 2007, I determined that Ms Kernahan had been unjustifiably dismissed. I made various orders to settle the personal grievance. I also invited the parties to agree costs but they have been unable to do so. Ms Kernahan now makes application for costs. She has previously advised the Authority that she is in receipt of a grant of legal aid. The representatives have made submissions to assist me in the exercise of the Authority's discretion.

[2] Ms Elliott advises the Authority Ms Kernahan is required to repay to the Legal Services Agency her grant of aid which is in the sum of \$3,250.00. Costs are sought in the sum of \$2,250.00.

[3] Mr Tremewan submits that costs ought to lie where they fall or alternatively, an award of between \$500.00 and \$750.00 made "*given the actual unsubstantiated costs*". Mr Tremewan takes issue with Ms Elliott's statement of Meeting time of 1.5 days, and says the Meeting time was actually over half a day. He further points to the applicant's failure to adhere to agreed directions and inappropriate questioning of one of the respondent's witness. He submits there were no complex issues involved.

[4] I agree that the total Meeting time involved was 1.5 days. I agree too that this was not a complex investigation. I note that Ms Kernahan's advised costs are not detailed. But Ms Kernahan

succeeded in obtaining a resolution in her favour, and she shall be regarded as the successful party. Costs will follow that event and she will have a reasonable contribution to costs which I assess as reasonable. As the investigation did not involve complex legal principles or complicated factual matters, I consider the Authority's lower daily tariff is appropriate.

[5] Exercising my discretion on a principled basis, **I order Review Publishing Co Limited to pay to Katy Kernahan the sum of \$2,000.00 as a contribution to her costs. This sum is inclusive of disbursements.**

Leon Robinson
Member of Employment Relations Authority